

A. Michael Barker, Esquire
Barker, Scott, Gelfand & James
A PROFESSIONAL CORPORATION
Linwood Greene – Suite 12
210 New Road
Linwood, New Jersey 08221
(609) 601-8677
AMBarker@BarkerLawFirm.net
Our File Number: 47733-182
Attorney for Defendant, City of Sea Isle City

SAMANTHA MULLER
Plaintiff

v.

CITY OF SEA ISLE CITY
Defendant

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CAPE MAY COUNTY

Docket Number
CPM-L-2090-10

Civil Action

NEGOTIATED SETTLEMENT AGREEMENT
and GENERAL RELEASE

1. Parties. The parties to this Negotiated Settlement Agreement and General Release (hereinafter sometimes referred to as the "Agreement") are Samantha Muller, her heirs, executors, administrators, assigns, and representatives (hereinafter collectively referred to as "Muller"); and, the City of Sea Isle City, and any and all attorneys, agents, servants, representatives, assigns, successors, and insurance carriers of the City of Sea Isle City (hereinafter referred to as "Sea Isle City"). Muller and Sea Isle City are sometimes hereinafter referred to as the "Parties".

2. The Parties have chosen to enter into this Agreement in order to avoid further proceedings with respect to any claims of Muller against Sea Isle City, and any claims of Sea Isle City against Muller, including but not limited to those brought in *Samantha Muller v. City of Sea Isle City* Superior Court of New Jersey, Cape May

County, Law Division, Docket Number CPM-L-2090-10, or in any other forum for arbitration or dispute resolution.

The Parties wish to resolve, finally and completely, all actual or potential disputes, differences, controversies, or claims (collectively hereinafter sometimes referred to as "claims"), which did arise out of, refer to, or relate to the employment of Muller with Sea Isle City, as of the date of complete and final execution of this Agreement.

3. No Admission and No Admissibility. The Parties understand and agree that the making of this Agreement shall not, in any way, be considered to be an admission of any guilt, wrongdoing or non-compliance with any Federal, State, or local law, or any collective bargaining agreement, or for any other wrongdoing whatsoever; and, the Parties each understand and agree that the making of this Agreement shall not, in any way, be construed as an admission against interest for any one or more of them, nor shall this Agreement be admissible into evidence in any subsequent proceeding, except for the enforcement of this Agreement. This Agreement is entered into solely to avoid the continuing expense and distraction of litigation and disputes involving personnel issues.

4. Representations and Warranties of Muller. Muller hereby represents and warrants to Sea Isle City that:

- a. Read Agreement. Muller has read this Agreement in its entirety;
- b. Discussions with Counsel. Muller has discussed all of this Agreement with her Attorney and is satisfied with services of her Attorney and there is no aspect of this Agreement which Muller has not discussed with her Attorney and Muller fully understands all provisions of this Agreement and the legal and practical effect of this Agreement and Muller has had adequate time to consider all terms and conditions of this Agreement.

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- c. Voluntary Acts. Muller is signing this Agreement freely and voluntarily, without coercion of any kind, and with full knowledge and understanding of its contents and that this Agreement is binding;
- d. No Reliance. Muller is not relying in any way on any statements, representations, or promises by Sea Isle City, except as specifically set forth in this Agreement;
- e. No Assignment or Transfer. Muller has not assigned or transferred, or purported to assign or transfer, any claim covered by this Agreement, or any portion of any such claim or any interest in any such claim, to any person or entity;
- f. No Claims Filed. Except for the matter of *Samantha Muller v. City of Sea Isle City*, currently pending in the Superior Court of New Jersey, Cape May County, Law Division, Docket Number CPM-L-2090-10, Muller has not filed, and will not file, any charges, complaints or other claims against Sea Isle City for anything that has happened up until the complete and full execution of this Agreement, not in any other federal, state, or local court, or any agency or Division of the State of New Jersey or in any other forum.
- g. Taxes and Indemnification. Muller understands and agrees that an IRS Form 1099 designating the amount specified in paragraph 7(b) as "other income" may be issued. Muller agrees to assume full liability for any applicable state, federal, and local taxes that may be required by law to be paid with respect to any payment as specified in paragraph 7(b). Muller further agrees that in the event the Internal Revenue Service or any other taxing authority deems any tax, interest, penalties, or other amounts to be due from Sea Isle City, the Municipal Excess Liability Joint Insurance Fund [hereinafter referred to as "MELJIF"] or Scibal Associates, with respect to the payment set forth in paragraph 7(b), Muller will indemnify Sea Isle City, the MELJIF, or Scibal Associates, for any sums Sea Isle City, the MELJIF, or Scibal Associates may be required to pay. Muller further agrees to pay any reasonable and necessary attorney's fees incurred by defendants, the MELJIF or Scibal Associates in defense of any action brought by the IRS or any other taxing authority against defendants arising from any claim for payment made pursuant to paragraph 7. However, Muller will have no such obligation to defend unless first provided with notice of the IRS action and 30 days of opportunity to pay any alleged disputed amounts.

5. Release of Specific Claims. In exchange for the promises made by and

between Muller and Sea Isle City herein, Muller:

- a. agrees to the dismissal with prejudice, and without any award of costs or attorneys' fees, of the Complaint filed in the matter of *Samantha Muller v. City of Sea Isle City* Superior Court of New Jersey, Cape May County, Law Division, Docket Number CPM-L-2090-10.

- b. agrees to unconditionally and irrevocably release Sea Isle City of and from any and all claims, known or unknown, that Muller has, or may have had, against Sea Isle City as of the date of the full and complete execution of this Agreement, including but not limited to any and all claims set forth in *Samantha Muller v. City of Sea Isle City* Superior Court of New Jersey, Cape May County, Law Division, Docket Number CPM-L-2090-10, or otherwise arising out of the employment of Muller with Sea Isle City, including but not limited to any alleged violation of:
 - The Rules and Regulations of Sea Isle City;
 - The Rules and Regulations of the Sea Isle City Police Department;
 - Any Collective Bargaining Agreement;
 - Any agreement for vacation, sick or personal leave pay or payment pursuant to any practice, policy, handbook, manual, Collective Bargaining Agreement, or contract of Sea Isle City;
 - Any public policy, contract (express, written or implied), tort, or common law claim;
 - New Jersey Laws regarding Political Activities of Employees, Lie Detector Tests, Jury Duty, Employment Protection, Consumer Reports, Discrimination; and, any other federal, state, or local civil rights law or any other local, state, or federal law, regulation or ordinance;
 - The Occupational Safety and Health Act;
 - The Family and Medical Leave Act;
 - The Equal Pay Act;
 - Worker Adjustment and Retraining Notification Act;
 - The New Jersey Law Against Discrimination;
 - The New Jersey Family Leave Act;
 - The New Jersey State Wage and Hour Law;
 - The New Jersey Conscientious Employee Protection Act;
 - The New Jersey Equal Pay Law;
 - The New Jersey Occupational Safety and Health Laws;
 - The National Labor Relations Act;
 - Title VII of the Civil Rights Act;
 - The Civil Rights Act of 1991;
 - §§1981 through 1988 of Title 42 of the United States Code;
 - The Employee Retirement Income Security Act;

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- The Fair Credit Reporting Act;
- The Americans with Disabilities Act;
- The Rehabilitation Act;
- The Age Discrimination in Employment Act;
- Executive Order 11246;
- The Fair Labor Standards Act;

6. Muller Consideration. Muller specifically agrees as follows:

- a. Muller does release and give up, in accord with this Agreement, any and all claims, demands, actions, and causes of action against Sea Isle City that Muller has for anything that happened up until the full and final execution of this Agreement including but not limited to, any and all personnel action(s), grievance(s), unemployment compensation benefits, disability compensation benefits or violation(s) of any administrative code, rule or regulation.
- b. Muller does release and give up any and all claim(s) and right(s) against Sea Isle City, including any and all claims for litigation expenses, attorneys' fees, or court fees, or other fees related to litigation which Muller may have had or may have against Sea Isle City for anything which happened up to the date and time of the complete and full execution of this Agreement and Muller specifically agrees to authorize and direct his attorneys to execute a Stipulation of Dismissal with Prejudice as may be required by Sea Isle City to give full effect to this Agreement.
- c. Muller agrees to take any and all steps necessary to effectuate the dismissal of any action(s) filed by Muller against Sea Isle City in *Samantha Muller v. City of Sea Isle City* Superior Court of New Jersey, Cape May County, Law Division, Docket Number CPM-L-2090-10, or in any actions filed by Muller against Sea Isle City in any other forum, court of law, or tribunal, and to specifically take any and all steps necessary to effectuate the dismissal of all the foregoing, including but not limited to the filing of a Stipulation of Dismissal with Prejudice, the execution of an Affidavit, the execution of a Consent Order, or making appearances before a court or before a hearing officer.
- d. Muller does agree to be responsible for any liens, including but not limited to unemployment compensation liens, temporary disability liens, child support judgment or liens, liens for any medical provider, hospital or attorney and Muller does agree that in the event any State Agency or other authority or person deems any amount to be due from Sea Isle City with respect to any one or more of the above-cited liens, Muller will indemnify Sea Isle City for any sums Sea Isle City may be required to pay to satisfy any such lien or

a part thereof; and, Muller further agrees to pay any reasonable and necessary attorneys fees incurred by Sea Isle City in defense of any action brought against Sea Isle City as a result of any such lien provided that Muller will have no such obligation to pay reasonable and necessary attorneys fees incurred by Sea Isle City in defense of such lien related claims unless Muller is first provided by Sea Isle City with notice of such lien related claims and Muller is provided 30 days of opportunity to pay or otherwise fully resolve any such lien related claims against Sea Isle City.

- e. Muller understands and agrees that an IRS Form 1099 designating the amount specified in paragraph 7(b) as "other income" will be issued and Muller agrees to assume full liability for all applicable state, federal, and local taxes, if any, which may be required by law to be paid with respect to any such payment to Muller, and Muller further agrees that, in the event that the Internal Revenue Service or any other taxing authority deems any tax, interest, penalties, or other amounts to be due from Sea Isle City, the MELJIF or Scibal Associates with respect to payments described at paragraph 7(b), then Muller will indemnify Sea Isle City, the MELJIF or Scibal Associates for any and all such sums Sea Isle City, the MELJIF, or Scibal Associates may be required to pay. Muller further agrees to pay any reasonable and necessary attorney's fees incurred by Sea Isle City, the MELJIF, or Scibal Associates in defense of any action brought by the IRS or any other taxing authority against Sea Isle City arising from any claim for payment made pursuant to paragraph 7. However, Muller will have no such obligation to defend unless first provided with notice of the IRS action and 30 days of opportunity to pay any alleged disputed amounts.
- f. Muller agrees that she will not file any claim(s) or lawsuit(s) or action(s) of any kind or type for any benefits or damages against Sea Isle City for anything which may have happened up to the date of the full and final execution of this Agreement and Muller agrees that she will take all necessary action(s) to effectuate the dismissal and the withdrawal with prejudice of any charge(s), complaint(s), or cause(s) of action she has filed or which may have been filed on her behalf against Sea Isle City in any court, forum or tribunal.
- g. Muller agrees that she will fully execute any and all supplemental documents, and take any additional action(s) that may be necessary or appropriate to give full force and effect to the terms of this Agreement.

7. Sea Isle City Consideration. In exchange for the promises made by Muller, and the execution by Muller of this Agreement, Sea Isle City agrees to pay Muller the

amount specified below and to take the action set forth below after Muller has properly executed all settlement documents, including but not limited to this Agreement

- a. Payment of Two Hundred and Five Thousand Dollars (\$205,000) to Muller and her attorney, of which Fifty Five Thousand Dollars (\$55,000) shall be made payable to Van Syoc Chartered, and Fifty Thousand (\$50,000) shall be made payable to Muller, within thirty (30) days of receipt of this complete and fully executed Agreement, One Hundred Thousand Dollars (\$100,000) to MetLife Tower Resources Group, Inc. to make future periodic payments to Muller as more specifically referenced in the attached Schedule of Benefits, and the W-9 form properly executed by Van Syoc Chartered and Muller;
- b. The aforesaid sum of One Hundred Fifty Thousand Dollars (\$150,000) to Muller represents payment for claims of non-economic damages, including, but not limited to physical or mental injury, illness, pain, suffering, humiliation, embarrassment, loss of enjoyment of life, disability, or any other form of alleged harm that was allegedly suffered by Muller, and it is stipulated by the parties that no part of the aforesaid sum is attributed to any loss of income claim or to any punitive damage claim.
- c. Muller agrees that she is responsible for all applicable taxes, if any, as a result of the receipt by her of the aforesaid sum of One Hundred Fifty Thousand Dollars (\$150,000).
- d. Muller agrees to indemnify Sea Isle City, the MELJIF, and Scibal Associates in accordance with paragraph 4(g) and 6(e) above, and 7(e) below:
- e. Sea Isle City, the MELJIF, or Scibal Associates shall notify Muller's counsel within thirty (30) days, of receipt of same, in writing, and via Certified Mail/Return Receipt Requested, of any notification from any taxing authority, of any assessments, or of any concerns of any taxing authority; it is expressly agreed that if Sea Isle City, the MELJIF, or Scibal Associates is required to provide payment for taxes or interest or penalties to any taxing authority as a result of any payment to Muller pursuant to this Agreement, then Muller shall reimburse Sea Isle City, the MELJIF, or Scibal Associates for such payment or payments to any taxing authority within ten (10) days after the attorney for Sea Isle City, the MELJIF, or Scibal Associates notifies the attorney for Muller, in writing, via Certified Mail/Return Receipt Requested, that Muller has such a liability;

- f. Sea Isle City agrees to fully execute any and all supplemental documents and take any additional action(s) that may be necessary or appropriate to give full force and effect to the terms of this Agreement.
- g. Sea Isle City agrees to increase Muller's base salary by \$2,000, per annum beginning 30 days after execution of agreement.
- h. Any dispute regarding the terms of this settlement agreement shall be submitted to Judge George Seltzer, J.S.C. Ret. for binding arbitration.

8. Non-disclosure Agreement. Muller agrees not to disclose this Agreement, or the amounts involved in this Agreement, and shall keep such information confidential, and shall not disclose it to anyone except as may be required to consult with legal counsel, or for tax or accounting consultation, or advice, or as otherwise directed by court order.

9. Entire Agreement. This Agreement sets forth the entire agreement between the Parties, and fully supersedes any prior agreement(s) or understanding(s) between the Parties and the Parties acknowledge there has been no reliance on any representations, promises, or agreements of any kind in connection with this Agreement, except for those set forth in this Agreement.

10. Modification. This Agreement may not be modified, except upon express written consent of the Parties to this Agreement.

11. Joint Negotiation. This Agreement is a product of joint negotiation by, between and among the Parties and is not to be construed for or against any one of the Parties by virtue of the fact that the Parties or anyone or more of them participated in the preparation of this Agreement.

12. Enforceability. In the event that any provision(s) contained in this Agreement is declared invalid, illegal, or unenforceable by any court of competent

jurisdiction, and cannot be modified to be enforceable, excluding the general release language, such provision(s) shall immediately become null and void, leaving the remainder of this Agreement in full force and effect. Moreover, if any such provision(s) determined to be invalid, illegal, or unenforceable can be made valid, legal, or enforceable by modification thereof, then the party for whose benefit the provision(s) exists may make such modification(s) as necessary to make the provision(s) valid, legal, and enforceable.

13. New Jersey Law. This Agreement shall be governed and conformed in accordance with the laws of the State of New Jersey.

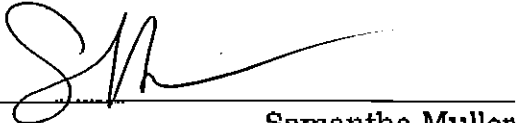
14. Satisfaction with Counsel. Muller acknowledges that she is satisfied with the services of her attorney with respect to all advice and counsel which she has received from her attorney with respect to all aspects of this Agreement and her employment with Sea Isle City, including but not limited to any and all aspects, terms, and conditions of this Agreement and the decision to execute and be bound by the terms and conditions of this Agreement.

15. Acknowledgements. By executing this Agreement, Muller acknowledges that she:

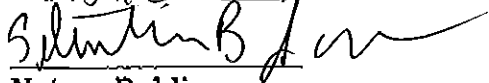
- a. read the entire Agreement;
- b. understands the entire Agreement and that, by executing the same, she is giving up important rights;
- c. agrees with everything in the Agreement;
- d. the Agreement was negotiated on her behalf by her attorneys with their knowledge and consent.

16. Evidence. This Agreement shall not be used as evidence in any other action or proceeding but may only be used as evidence in a proceeding by, between, and among the Parties to enforce the terms of this Agreement.

17. Date of Agreement. This Agreement has been executed by Muller on the 23 day of June 2011.


Samantha Muller

Sworn to and Subscribed
before me this 23rd day
of June, 2011.



Notary Public

My Commission Expires:

Sebastian B. Iorio, Esq
Attorney at Law
State of New Jersey

Section 130 Qualified Assignments

